# IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

## CIVIL REVISION APPLICATION No. 454 of 1999

**For Approval and Signature:**

**HONOURABLE MR.JUSTICE P.B.MAJMUDAR**

==========

1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

==========

**DHANANJAY BHANUSHANKAR MEHTA**
**Versus**
**JAAYMALIK DHANANJAY MEHTA**

==========

**Appearance :**
MR JS UNWALA for MR RAMESH K SHAH for the Applicant
MS ARUNA N SHAH for the Opponent

==========

**CORAM : HONOURABLE MR.JUSTICE P.B.MAJMUDAR**

**Date : 06/03/2006**

**ORAL JUDGMENT**

By filing this revision application under Section 115 of the Civil Procedure Code, the petitioner – original opponent of Hindu Marriage Petition No.320 of 1997 has challenged the order passed by the learned Additional Sessions Judge, City

Civil Court, Court No.18, Ahmedabad dated 6.11.1998. By the impugned order, the learned Judge has granted interim alimony in favour of the respondent at the rate of Rs.2000 per month from the date of the application till the final hearing of the application. The petitioner herein has preferred Hindu Marriage Petition No.320 of 1997 for restitution of conjugal rights. In that proceedings, the present respondent has given application for interim alimony under Section 24 of the Hindu Marriage Act. The learned trial Judge found that the husband was earning Rs.10,000 per month by running a dancing school. The learned trial Judge also found that the husband has not led any evidence to show his actual income or that his income was not Rs.10,000 per month and, therefore, the say of the wife that the monthly income of the husband was Rs.10,000 is required to be believed. The learned trial Judge has also drawn an adverse inference against the husband as he has not produced the evidence before the Court. In that view of the matter, the learned Judge has fixed the interim alimony of Rs.2,000 per month by accepting the say of the wife that the income of the husband is Rs.10,000 per month and also awarded Rs.3,000/- towards the costs.

In my view, the impugned order is not required to be interfered with by this Court in its limited jurisdiction under Section 115 of the Civil Procedure Code. After considering the prima facie material the learned trial Judge fixed the interim alimony at the rate of Rs.2,000 per month and it cannot be said that the trial Court has committed any error or that the same requires any interference by this Court. Hence, this revision application is rejected. Rule is discharged with no order as to

costs. Interim relief granted earlier is vacated.

(P.B.Majmudar, J.)

*mohd